

**THE HONOURABLE SRI JUSTICE**  
**A.GOPAL REDDY**

and

**THE HONOURABLE SRI JUSTICE**  
**P.SWAROOP REDDY**

***W.P.No.17205 of 2007***

Dt.26-09-2007

Between:

Y.Ram Bhupal Reddy

..Petitioner

and

The Govt. of A.P. rep. by the Chief Secretary  
to Govt., Secretariat Buildings, Hyderabad and others.

..Respondents.

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Oral Order:

The friend of Harijana Muthyalu @ Muthyalappa, namely, Ram Bhupal Reddy invoked the Habeas Corpus jurisdiction of this Court under Article 226 of the Constitution for quashing the detention order by declaring the detention of his friend as illegal and void.

2. The Collector and District Magistrate—2<sup>nd</sup> respondent herein made the detention order under Section 3(1) and (2) r/w Section 2(a) & (b) of A.P. Prevention of Dangerous Activities of Bootleggers, Dacoits, Drug Offenders, Goondas, Immoral Traffic Offenders and Land Grabbers Act, 1986 (for short “the Act 1/1986”) that he has satisfied to detain Harijana Muthyalu, as he is found to be a “*bootlegger*” within the meaning of Section 2(a) and 2(b) of the Act and he shall be detained to further prevent from indulging in such dangerous activities prejudicial to the maintenance of public order for a period of three months from the date of detention and lodged in Central Prison, Cherlapalli, Hyderabad.

3. The grounds of detention as enclosed to the detention order also discloses that Harijana Muthyalu the alleged detenu was in the habit of doing illegal business in arrack in a large scale in a clandestine manner at regular intervals violating Prohibition Act and Excise Act. The samples, which were drawn from him, are proved to be diluted arrack containing sediment, unfit for human consumption and injuries to health. Accordingly, Cr.No.62/2006-07, Cr.No.157/2006-07 and 205/2006-07 of Prohibition and Excise Station, Penukonda were registered on different dates while he was

clandestinely transporting the arrack sachets. The said detention order has been approved by the Government in G.O.Rt.No.2345 dated 02-05-2007 under sub-section (3) of Section 3 of the Act 1/1986. On referring the matter to the Advisory Board, who in its report dated 07-06-2007, after hearing the detenu and the investigating officers, opined that there is sufficient cause for the detention of the detenu—Harijana Muthyalu friend of the petitioner. On considering the report of the Advisory Board, the Government in exercise of the powers conferred under sub-section (1) of section 12 r/w Section 13 of the Act 1/1986 through G.O.Rt.No.3317 dated 12-06-2007 confirmed the detention order, directing the detention of Harijana Muthyalu @ Muthalappa be continued for a maximum period of 12 months from the date of his detention i.e. 27-04-2007.

4. We have heard the learned counsel for the petitioner as well as learned Advocate General for the respondents.

5. Learned counsel for the petitioner contended that the public analyst report clearly goes to show that ethyl alcohol content is within the permissible limits and non-informing the detaining authority about petitioner releasing on bail is fatal of the detention order.

6. It is not necessary to go into all the details about the detention order. On hearing the arguments advanced by either side, suffice it to say that the detention order passed by the 2<sup>nd</sup> respondent—detaining authority on 24-04-2007 specifying the period of three months itself vitiates the detention order. Further, the Government in G.O.Rt.No.2345 dated 02-05-2007 approved the detention order passed by the 2<sup>nd</sup> respondent, detaining the alleged detenu for a period of three months. Even assuming that the Government approved the detention order after considering the report of the Advisory Board,

who only opined that there is sufficient cause for the detention of the detenu, it is only for a period of three months as mentioned in the detention order but not beyond the said period. Section 3 (2) of the Act only deals with delegation of powers of detention but not the detention period.

7. It is categorically held by the Supreme Court in **MAKHAN SINGH TARSIKKA v. STATE OF PUNJAB**<sup>[1]</sup> that if the detention authority specifies the period of detention the whole detention order vitiates and the consequential approval order cannot be sustainable. The same has been approved by the Constitutional Bench in **DATTATRAYA V. STATE OF BOMBAY**<sup>[2]</sup> In view of the same, the detention order as well as consequential approval order passed by the State Government cannot be upheld and the same is accordingly set-aside.

8. In the result, writ petition is allowed and the order of detention in Rc.No.181/2007/A3 dated 24-04-2007, as approved by the State Government, is set aside and the detenu, namely, Harijana Muthyalu @ Muthyalappa is set at liberty forth with.

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A.GOPAL REDDY, J.

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P.SWAROOP REDDY

26-09-2007  
**Murthy**

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[\[1\]](#) AIR 1952 SC 27

[\[2\]](#) AIR 1952 SC 181